

# Spain

## Section 1. Respect for the Integrity of the Person, Including Freedom from:

### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

#### Role of the Police and Security Apparatus

Police forces include the national police and the paramilitary Civil Guard, both of which handle migration and border enforcement under the authority of the national Ministry of the Interior, as well as regional police under the authority of the Catalan and the Basque Country regional governments.

Civilian authorities maintained effective control over all police forces and the Civil Guard, and the government generally has effective mechanisms to investigate and punish abuse. There were no reports of impunity involving the security forces.

The constitution provides for an ombudsman to investigate claims of police abuse. In 2017 the ombudsman did not receive any complaints for police mistreatment. These figures represented a decrease in the number of cases of police abuse reported in prior years. In 2017, however, the ombudsman's office opened 157 official investigations in its role as the National Mechanism for the Prevention of Torture.

In May, Amnesty International alleged that the public prosecutor's office and Ministry of the Interior were "not fulfilling [their] obligation to pursue investigations" related to the use of excessive force by security forces during the October 2017 referendum on independence in Catalonia that the Supreme Court had ruled unconstitutional.

#### Arrest Procedures and Treatment of Detainees

The law permits police to apprehend suspects for probable cause or with a warrant based on sufficient evidence as determined by a judge. With certain exceptions police may not hold a suspect for more than 72 hours without a hearing. In certain rare instances involving acts of terrorism, the law allows authorities, with the authorization of a judge, to detain persons for up to five days prior to arraignment. These rights were respected. Authorities generally informed detainees promptly of the charges against them. The country has a functioning bail system, and the courts released defendants on bail unless they believed the defendants might flee or be a threat to public safety. If a potential criminal sentence is less than three years, the judge may decide to impose bail or release the accused on his own recognizance. If the potential sentence is more than three years, the judge must set bail. The law provides detainees the right to consult a lawyer of their choice. If the detainee is indigent, the government appoints legal counsel.

In certain rare instances involving acts of terrorism, a judge may order incommunicado or solitary detention for the entire duration of police custody. The law stipulates that terrorism suspects held incommunicado have the right to an attorney and medical care, but it allows them neither to choose an attorney nor to see a physician of their choice. The court-appointed lawyer is present during police and judicial proceedings, but detainees do not have the right to confer in private with the lawyer. The government continued to conduct extensive video surveillance in detention facilities and interrogation rooms ostensibly to deter mistreatment or any violations of prisoner rights by police or guards.